Chapter 284-24D WAC

MEDICAL MALPRACICE CLOSED CLAIM DATA REPORTING RULES THAT APPLY TO INSURING ENTITIES, HEALTH CARE FACILITIES AND HEALTH CARE PROVIDERS

NEW SECTION

WAC 284-24D-010 Purpose. This chapter describes the rules, practices and procedures that must by used by insuring entities, health care facilities and health care providers to comply with chapter 48.140 RCW.

NEW SECTION

WAC 284-24D-020 Definitions that apply to this chapter. The definitions in chapter 48.140 RCW apply to this chapter. In addition, these definitions apply throughout the chapter:

(1) "Allocated loss adjustment expenses" means all loss adjustment expenses identified in the claim file that were paid to resolve the claim. These expenses generally include court costs, attorneys' fees, independent adjuster fees and costs of expert witnesses and other expenses that are specifically allocate to a claim.

(2) "Claims closed with payment" means claims closed with an indemnity payment where the date of the final payment to the claimant was during the reporting period regardless of the date of loss or notice date.

(3) "Claims closed without payment" means claims closed without an indemnity payment where:

(a) The date the claim was closed is during the reporting period regardless of the date of loss or the notice date; and

(b) Includes claims where no indemnity payment was made to a claimant but payments were made for allocated

loss adjustment expenses.

(4) "Claim identifier" means a number assigned to a claim by an insuring entity, health care facility or health care providers.

(5) "Deductible" means the portion of a claim that a facility or provider must reimburse to the insuring entity from its own funds. An insuring entity is obligated to:

(a) Pay the full indemnity payment to the claimant; and

(b) Pay for all loss adjustment expenses.

(6) "Final indemnity payment" means the date final payment was issued to the claimant. If partial payments are made on the claim, the claim would be considered closed with payment if the final payment date was during the reporting period regardless of the date of loss or notice date.

(7) "Forensic economics" means the study and interpretation of evidence related to economic damages related to medical malpractice for purposes of civil litigation. Economic damages typically include, but are not limited to:

(a) Present day calculations of lost earnings and benefits;

(b) Lost earnings protential;

(c) Lost value of household service(s); and

(d) Future medical care costs.

(8)"Incident identifier" means an alpha-numeric identifier assigned to a series of closed claims that result from a single incident of actual or alleged medical malpractice.

(9)"Limit of insurance" or "limit" means the available liability insurance provided by an insuring entity or joint self-insurance program authorized under chapter 48.62 RCW.

(10)"Notice date" means the earliest or first date the claim was reported to either the insuring entity or provider should also be the day the claim is opened on the company system.

(11) "Paid and estimated economic damages" means economic damages paid to a claimant based on:

(a) Objectively verifiable evidence; and/or

(b) Estimates developed from the injured person's available personal data using principles forensic economic principles.

(12) "Provider" includes both a facility and provider as defined in RCW 48.140.010 (6) and (7).

(13) "Reporting site" means the web-based application that must be used to report closed medical malpractice claims.

(14) "Self-insured retention" or "retention" means the portion of a claim that a facility or provider must pay to the claimant from its own funds.

(a) An insuring entity is not obligated to make indemnity payments to the claimant for any amount that falls within the self-insured retention limit.

(b) A facility or provider with a self-insured retention is responsible for both indemnity payments related loss adjustment expenses.

(15) "Suit" means a court proceeding to recover a right to a claim, including suits for arbitration cases. It does not include subrogation claims where suit is field by the company against the tortfeasor. Suits must be counted as follows:

(a) One suit with two claimants must be reported as two suits as any awards/payments made would be made to the claimants individually.

(b) One suit filed seeking damages under two policies would be reported as one suit.

(b) One suit filed seeking damages for multiple coverages must be reported as one suit.

(16) "Unallocated loss adjustment expenses" means costs functionally associated with settling claims that are not identified in the claim file. These expenses generally salaries paid to internal claims, legal staff or risk management staff and any related overhead costs.

(17) "User ID" is a number assigned by the reporting site to each insuring entity, health care facility or health care provider the first time they report a closed malpractice closed claim. The User ID will be permanent and is exempt from public disclosure under RCW 42.56.400